

**REMARKS**

Claims 1-24 are all the claims pending in the application. Claims 21-24 have been added by this Amendment.

***Statement of Substance of Interview***

As an initial matter, Applicants' representative thanks the Examiner for the courtesies extended during the interview conducted on December 18, 2007. In view of the helpful comments provided by the Examiner during the interview, and to expedite prosecution of the instant application, claims 1, 5, 10, and 14 have been amended, and new claims 21-24 have been added as discussed during the interview. Applicants respectfully submit that the amendments place the application in immediate condition for allowance, as set forth in further detail below with respect to the prior art rejection of the claims and as preliminarily agreed to by the Examiner subject to further consideration and/or search (see Interview Summary dated December 18, 2007).

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

***Claim Rejections - 35 U.S.C. § 103***

**Claims 1-2, 5, 8, 9, and 19**

Claims 1-2, 5, 8, 9, and 19 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,864,547 to Strodbeck *et al.* ("Strodbeck") in view of U.S. Patent No. 4,999,583 to Washburn *et al.* ("Washburn"). For *at least* the following reasons, Applicants respectfully traverse the rejection.

In the previous Amendment filed on August 21, 2007, Applicants submitted that Strodtbeck does not disclose or suggest generating bit error rate (BER) messages indicative of measured BER for a signal transmitted at N power levels at the second terminals as set forth in claim 1. In particular, Applicants submitted that in Strodtbeck, a receiving terminal 12 extracts a signal of interest from a transmitting terminal 11 to evaluate link quality (Strodtbeck, FIGS. 1-2, col. 5, lines 10-11, and lines 20-24). Strodtbeck discloses that a link quality measurement consists of one downlink error rate estimate and one end-to-end error rate estimate. Many such measurements are averaged for the single extracted signal for each update of a power control loop (Strodtbeck, col. 6, lines 17-18, and lines 37-38). Therefore, there is no disclosure of generating bit error rate messages indicating a bit error rate for a signal transmitted at N power levels.

In response, in the current Office Action, the Examiner asserts that Strodtbeck “teaches that there is a direct relationship between the BER and the power level (See Col. 6 lines 38-47) thus when the power level changes there will be a corresponding change in the BER. Since the BERs change there are a plurality of BERs and thus a corresponding plurality of power levels” (Office Action, page 2). Applicants respectfully disagree.

However, in an effort to expedite prosecution, Applicants amend claim 1 to recite that each of said BER messages includes data indicative of a power level among the N power levels corresponding to the measured BER in the each of said BER messages. As submitted during the interview, nowhere in Strodtbeck is such a feature disclosed. For example, the link quality measurements in Strodtbeck that include the error rate do not include any data indicating any power level, let alone a power level from among N power levels corresponding to the measured error rate, as required by amended claim 1. The Examiner agreed that this amendment

overcomes the rejection based on the prior art of record (see the Interview Summary dated December 18, 2007). Accordingly, Applicants respectfully submit that claim 1 is in immediate condition for allowance.

Claim 2 depends from claim 1. Therefore, claim 2 is patentable *at least* by virtue of its dependency.

Amended claim 5 recites features similar to those discussed above with respect to claim 1. Therefore, claim 5 is patentable for reasons similar to those given above with respect to claim 1.

Claims 8, 9, and 19 depend from claim 5. Therefore, claims 8, 9, and 19 are patentable *at least* by virtue of their dependency.

Claims 3, 4, 6, and 7

Claims 3, 4, 6, and 7 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodtbeck in view of Washburn, and further in view of U.S. Patent No. 5,991,280 to Ichiyoshi. Since claims 3, 4, 6, and 7 depend from claims 1 and 5, and since Ichiyoshi does not cure the deficient teachings of Strodtbeck and Washburn with respect to claims 1 and 5, Applicants respectfully submit that claims 3, 4, 6, and 7 are patentable *at least* by virtue of their dependency.

Claims 10-18

Claims 10-18 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodtbeck in view Ichiyoshi. For *at least* the following reasons, Applicants respectfully traverse the rejection.

Amended claim 10 recites examining a plurality of control burst bit error rate (CB BER) measurement reports, respectively corresponding to a signal transmitted at N power levels, each of said CB BER measurement reports including data indicative of a power level among the N power levels to which it corresponds. Therefore, amended claim 10 is patentable for reasons similar to those given above with respect to claim 1.

Claims 11-13 depend from claim 10. Therefore, claims 11-13 are patentable *at least* by virtue of their dependency.

Amended claim 14 recites examining a plurality of control burst bit error rate (CB BER) measurement reports, respectively corresponding to a signal transmitted at N power levels, each of said CB BER measurement reports including data indicative of a power level among the N power levels to which it corresponds. Therefore, amended claim 14 is patentable for reasons similar to those given above with respect to claim 1.

Claims 15-18 depend from claim 14. Therefore, claims 15-18 are patentable *at least* by virtue of their dependency.

#### Claim 20

Claims 20 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodbeck in view of Washburn, and further in view of U.S. Patent No. 6,212,360 to Fleming *et al.* (“Fleming”). Since claim 20 depends from claim 5, and since Fleming does not cure the deficient teachings of Strodbeck and Washburn with respect to claim 5, Applicants respectfully submit that claim 20 is patentable *at least* by virtue of its dependency.

***New claims***

New claims 21-24 are patentable *at least* by virtue of their dependency. Moreover, as the Examiner acknowledges in the aforementioned Interview Summary, the prior art of record does not disclose or suggest that the signal is transmitted at the N power levels prior to the reducing the maximum allowed power of the amplifier as recited in some variation in claims 21-24.

***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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